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| 09/635,630 | 08/10/2000 | Kazuhiro Kusama | 566.38876X00 | 5841 |

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EXAMINER

GILLIGAN, CHRISTOPHER L

ART UNIT PAPER NUMBER

3626

DATE MAILED: 08/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/635,630

Applicant(s)

KUSAMA ET AL.

Examiner

Luke Gilligan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2003
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Response to Amendment

1. In the Amendment filed 6/9/03 in paper number 8, the following has occurred: claim 7 has been canceled and claims 1, 3, and 8-11 have been amended. Now, claims 1-6 and 8-11 are presented for examination.
2. The objection to the drawings is withdrawn by the Examiner based on changes made by Applicants to the specification.
3. The objection to the Abstract is withdrawn by the Examiner based on changes made by Applicants to the Abstract.
4. The rejections under 35 U.S.C. 101 are withdrawn by the Examiner based on changes made by Applicants to the claims.
5. The rejections under 35 U.S.C. 112 are withdrawn by the Examiner based on changes made by Applicants to the claims.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

7. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

8. Claims 1, 6, 8, and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Campbell et al. (5,918,209).

(A) As per claim 8, Campbell teaches a service reservation method that accepts requests from users for reservations utilizing services for utilizing services supplied by using resources (Campbell; col. 8, lines 22-25), comprising;

a) accepting service reservation booking requests from users (Campbell; col. 6, lines 42-50 and col. 8, lines 22-25);

b) determining the marginal value (i.e., degree of importance) of the accepted booking request in accordance with the preset specifications (Campbell; col. 7, line 27 to col. 8, line 2); and

c) denying the acceptance of the reservation request if the marginal value (i.e., degree of importance) of the request is lower than a net revenue (i.e., predetermined standard), and accepting the reservation request if the marginal value (i.e., degree of importance) of the request is not lower than the net revenue (i.e., predetermined standard), (Campbell; Figure 2B, col. 1, lines 15-25, col. 8, lines 20-40), during a period when the demand (81,85) (i.e., load level) is higher than a predetermined level (Campbell; Figures, 7A-7B, col. 1, lines 50-56).

d) wherein said resources include a transmission and exchange network adapted to supply transmission and exchange service to the users, and a data processing unit adapted to supply the users with information processing and accumulating services via said transmission and exchange network (see Figure 2A).

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(B) System claim 1 differs from claim 8, in that claim 8 contains a method recited as a series of function steps whereas claim 1 contains features recited in a "means plus function" format.

As the method of step claim 8 has been shown to be disclosed by the teachings of Campbell, it is readily apparent that the "means" to accomplish those method steps is obvious in view of the prior art. As such, the limitations recited in claim 1 are rejected for the same reasons given for method claim 8 and incorporated herein.

(C) As per claim 6, Campbell teaches, the system supplies services according to the accepted reservation using a digital network that transmits information and reservations between users and the system (Campbell; Figures 2A-2B and col. 6, lines 10-60).

(D) Article of Manufacture claim 10 differs from claim 8, in that claim 8 contains a method recited as a series of function steps whereas claim 10 contains features recited in a "means plus function" format. As the method of step claim 8 has been shown to be disclosed by the teachings of Campbell, it is readily apparent that the "means" to accomplish those method steps is obvious in view of the prior art. As such, the limitations recited in claim 10 are rejected for the same reasons given for method claim 8 and incorporated herein.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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10. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell et al. (5,918,209) and Official Notice.

(A) As per claim 2, Campbell teaches a service reservation system where the predetermined standard in which the marginal value (i.e., predetermined importance degree) is a function of, and increases linearly with, the demand curve (i.e., load level) (Campbell; Figure 11A and col. 11, line 22 to col. 13, line 21). It is unclear in Campbell whether the linear relationship of the demand curve to the marginal value is simple proportional relationship. However, it is common practice in the perishable goods industry to create a directly proportional relationship between demand (i.e., load level) and marginal value (i.e., importance degree) for the purposes of estimating materialization and revenue. It would have been obvious to one of ordinary skill in the art at the time of the invention to include a proportional relationship in the linear relationship of demand to marginal value of Campbell with the motivation of "maximizing profitability in the face of uncertain demand" (Campbell; col. 1, lines 24-25).

11. Claims 3-5, 9, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell as applied to claim 1 above, and further in view of Lynch et al. (6,119,094).

(A) As per claim 9, Campbell teaches a service reservation taking method for receiving reservations from users for utilizing services supplied by using resources (Campbell; col. 8, lines 22-25), comprising:

a) accepting service reservation booking requests from users (Campbell; col. 8, lines 22-25 and col. 6, lines 42-50);

b) increasing the utilization efficiency of each reservation (Campbell; col. 1, lines 15-25)

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c) wherein said resources include a transmission and exchange network adapted to supply transmission and exchange service to the users, and a data processing unit adapted to supply the users with information processing and accumulating services via said transmission and exchange network (see Figure 2A). However, Campbell does not expressly disclose the preparation of a substitute reservation plan including altering the contents of the reservation in the request so that resource utilization efficiency of the request is increased. Nor does Campbell teach the presenting, accepting, or booking of the substitute plan as in items d, e, and f, respectively below. Lynch teaches preparing a substitute plan (16) in which the contents of the original request is altered (Lynch; Figure 1 and col. 3, lines 40-65).

d) presenting the substitute reservation plan to the user (Lynch; Figure 4, col. 8, lines 55-60);

e) accepting the user's selection of one of the substitute plans (Lynch; col. 8, lines 60-65); and

f) booking the substitute plan (Lynch; col. 8, lines 60-65).

It would have been obvious to include the substitute plan preparing, presenting, accepting and booking of Lynch in the efficiency seeking method of Campbell with the motivation of identifying "a plurality of alternate low-cost travel arrangements that may be offered or recommended to a customer submitting a travel request" (Lynch; col. 1, line 67 to col. 2, line 2).

(B) Claim 3 differs from claim 9 in the recitation of "a reservation condition management element adapted to manage accepted reservation of services as reservation condition."

Campbell teaches a reservation system management element adapted to manage accepted reservations (Campbell; col. 8, lines 20-40 and col. 6, lines 10-55). The remainder of system claim 3 differs from claim 9, in that claim 9 contains a method recited as a series of function

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steps whereas claim 3 contains features recited in a "means plus function" format. As the method of step claim B has been shown to be disclosed or obvious by the combined teachings of Campbell, it is readily apparent that the "means" to accomplish those method steps is obvious in view of the prior art. As such, the limitations recited in claim 3 are rejected for the same reasons given for method claim 9 and incorporated herein.

(C) As per claims 4-5, Campbell teaches the denial and allowance of the accepted reservation and the increase of resource utilization efficiency of the requested reservation (Campbell; Figure 2B and col. 1, lines 15-25). However, Campbell fails to teach a substitute plan preparation element that prepares a substitute reservation by altering the contents of the reservation request. Lynch teaches preparing a substitute plan (16) in which the contents of the original request is altered (Lynch; Figure 1 and col. 3, lines 40-65). It would have been obvious to include the substitute plan preparing, presenting, accepting and booking of Lynch in the efficiency seeking method of Campbell with the motivation of identifying "a plurality of alternate low-cost travel arrangements that may be offered or recommended to a customer submitting a travel request" (Lynch; col. 1, line 67 to col. 2, line 2).

(D) Article of Manufacture claim 11 differs from claim 9, in that claim 9 contains a method recited as a series of function steps whereas claim 11 contains features recited in a "means plus function" format. As the method of step claim 9 has been shown to be disclosed or obvious by the combined teachings of Campbell and Lynch, it is readily apparent that the "means" to accomplish those method steps is obvious in view of the prior art. As such, the limitations recited in claim 11 are rejected for the same reasons given for method claim 9 and incorporated herein.

Response to Arguments

12. In the remarks filed 6/9/03 in paper number 8, the Applicants argue in substance that (1) the “marginal value” of Campbell and the “degree of importance” recited in the claims have different meanings and are used in manners different from each other; (2) while the present invention comprises two separate comparison stages for determining whether to accept a reservation request, Campbell only teaches one; (3) Campbell does not teach proposing an appropriate alternative in accordance with the degree of importance of each reservation; in addition, Applicants traverse the Official Notice and request supporting evidence.

13. In response to Applicants’ argument (1), the Examiner respectfully submits that the term “degree of importance” has been given the broadest reasonable interpretation to one of ordinary skill in the art. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The term “degree of importance” has not been further defined within the body of the claims to distinguish over the system of Campbell. In addition, the only recitation within the claims with regard to the manner in which the “degree of importance” is used is when comparing it against a predetermined standard. Therefore, given the manner in which this term is recited in the claims, the Examiner respectfully submits that the term is analogous to the “marginal value” of Campbell as detailed above.

14. In response to Applicants’ argument (2), the Examiner respectfully disagrees with Applicants’ interpretation of the Campbell reference. In particular, the system of Campbell denies the acceptance of reservation requests if the marginal value (i.e., degree of importance) of the request is lower than a net revenue (i.e., predetermined standard), and accepting the reservation request if the marginal value (i.e., degree of importance) of the request is not lower

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than the net revenue (i.e., predetermined standard), (Campbell; Figure 2B, col. 1, lines 15-25, col. 8, lines 20-40), during a period when the demand (i.e., load level) is higher than a predetermined level (Campbell; Figures, 7A-7B, col. 1, lines 50-56). Therefore, not only is the marginal value compared to a predetermined level, but so is the demand. Therefore, the Examiner respectfully submits that these features, as presently recited in the claims, are taught by Campbell.

15. In response to Applicants' argument (3), as an initial matter, the Examiner respectfully submits that this limitation is not recited in all of the claims. Moreover, in the claims in which this limitation is recited, this feature is taught by Lynch. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, since the Examiner has relied upon the teachings of Lynch to meet this limitation, Applicants' argument with respect to Campbell is moot.

16. In response to Applicants' traversal of the Official Notice, The Examiner respectfully draws Applicants' attention to Fields et al., U.S. Patent No. 5,459,656. In particular, Fields teaches distributing values in proportion to demand (see column 11, lines 17-25). In addition, the Examiner submits that the teachings of Campbell suggest a proportional distribution as well (see column 13, lines 15-27).

Conclusion

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

18. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**


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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luke Gilligan whose telephone number is (703) 308-6104. The examiner can normally be reached on Monday-Friday 8am-5:30pm.

20. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (703) 305-9588. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

21. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


CLG
8/22/03


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER
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